

FCC MAIL SECTION

Federal Communications Commission

DA 99-1089

JUN 4 1 24 PM '99

Before the
 DISPATCHED Federal Communications Commission
 Washington, D.C. 20554

In the Matter of)
)
)
 Amendment of Section 73.202(b),) MM Docket No. 99-214
 Table of Allotments,) RM-9546
 FM Broadcast Stations.)
 (Camp Wood, Texas))

NOTICE OF PROPOSED RULE MAKING**Adopted: May 26, 1999****Released: June 4, 1999****Comment Date: July 26, 1999****Reply Date: August 10, 1999**

By the Chief, Allocations Branch

1. Before the Commission for consideration is a petition for rule making filed by La Radio Cristiana Network, Inc. ("La Radio"), requesting the substitution of Channel 251C3 for Channel 256A at Camp Wood, Texas, and modification of its construction permit for Station KAYG to specify operation on Channel 251C3.

2. In support of its proposal, La Radio states that allotment of Channel 251C3 at Camp Wood, Texas, would provide service to 3,303 people while operation on the Class A channel provides service to only 1,720 people. La Radio contends that its service area would increase from 2,262 square kilometers to 4,624 square kilometers, and that no listeners would lose service as a result of a grant of this proposal. La Radio points out that although a counterproposal filed in MM Docket No. 98-55, 13 FCC Rcd 7351 (1998), has suggested that Channel 251A be substituted for Channel 256A at Camp Wood and demonstrated that Channel 251 could be upgraded to a C3 facility, it is not necessary to await resolution of that proceeding in order to change the frequency of the Camp Wood allotment, as Channel 251C3 can be allotted to Camp Wood without conflicting with any current allotments or proposals.

3. We believe La Radio's proposal warrants consideration. A staff analysis has determined that Channel 251C3 can be allotted to Camp Wood, Texas, in compliance with the minimum distance separation requirements of the Commission's Rules at La Radio's specified site.¹ We shall propose to modify the construction permit for Station KAYG, Channel 256A, as requested by La

¹ The coordinates for Channel 251C3 at Camp Wood are 29-42-53 and 100-00-56.

Radio, to specify operation on Channel 251C3. However, in accordance with Section 1.420(g) of the Commission's Rules, should another party indicate an interest in the Class C3 allotment, the modification cannot be implemented unless an equivalent class channel is also allotted. Since Camp Wood is located within 320 kilometers of the U.S-Mexican border, concurrence of the Mexican Government will be requested for the allotment of Channel 251C3 at Camp Wood.

4. We believe the public interest would be served by proposing the substitution of Channel 251C3 for Channel 256A at Campwood, Texas, since it could provide the community with expanded service. Accordingly, we seek comments on the proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

Community	Channel No.	
	Present	Proposed
Camp Wood, Texas	256A	251C3

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before **July 26, 1999**, and reply comments on or before **August 10, 1999**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D. C., 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

Barry D. Wood
Paul H. Brown
Wood, Maines & Brown Chartered
1827 Jefferson Place, NW
Washington, D. C. 20036

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been

decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal communications Commission,

Washington, D. C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, Washington, D. C.